

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF IOWA**

| | | |
|--|---|------------------|
| DONGHYUK KIM |) | |
| |) | |
| Plaintiff, |) | Case No. 19-2037 |
| |) | |
| vs. |) | |
| |) | |
| THE UNIVERSITY OF NORTHERN |) | |
| IOWA, MARK A. NOOK, President of the |) | |
| University of Northern Iowa in his |) | |
| official capacity, LEAH GUTKNECHT, |) | |
| in her individual and official capacities, |) | |
| CHRISTINA ROYBAL, in her individual |) | |
| and official capacities, LESLIE K. |) | |
| WILLIAMS, in her individual and |) | |
| official capacities, PAULA KNUDSON, |) | |
| in her individual and official capacity, |) | |
| NICHOLAS RAFANELLO, in his |) | |
| individual and official capacities, |) | |
| ALLYSON RAFANELLO, in her |) | |
| individual and official capacities, |) | |
| |) | |
| Defendants. |) | |

**Amended Joint Proposed Briefing Schedule on
Motion to Dismiss**

On October 1, 2019, the Defendants filed a Motion to Dismiss under Fed. R. Civ. P. 12(b)(6). (ECF Doc. 28). The Plaintiff was ordered to respond to the Motion by October 15, 2019. Counsel for the Plaintiff sought from counsel for the Defendants an extension of the deadline to respond. These discussions resulted in an agreement between the parties and a Joint Proposed Briefing and Hearing schedule. On October 7, 2019, the parties filed a Joint Proposed Briefing Schedule with the Court. (ECF Doc. 36). On October 8, 2019, the Court entered an Order which denied the requested relief without prejudice, permitting the parties to re-file the motion providing

facts to demonstrate good cause for the requested extension. (ECF Doc. 37). In accordance with this Order, the parties hereby respectfully submit the following facts demonstrate good cause to support the parties' Joint Proposed Briefing schedule:

- Plaintiff's primary counsel, Thomas P. Frerichs, was out of the office from September 27, 2019 until October 6, 2019 and his only day in the office during the week of October 7, 2019 was Monday, October 7, 2019.
- Mr. Frerichs is also preparing for a jury trial in Johnson County, Case No. LACV079404, *Donald L. Clark v. State of Iowa*, which is set to begin on October 29, 2019; a brief and addendum in the Eighth Circuit, Case No. 19-2610, *Bates v. Richardson et. al.* due on October 21, 2019; and a 200-page post-conviction relief petition in *Boppre v. State of Nebraska*, Case No. CR35847 due on October 16, 2019.
- Plaintiff's co-counsel, Nesenoff & Miltenberg, LLP, is currently preparing an expedited appeal in the First Circuit, as well as a pending motion for preliminary injunction in Connecticut. In addition, Mr. Bernstein had to take a brief leave due to the sudden and unexpected passing of his brother.
- Defense counsel has two separate trials scheduled for late November/early December 2019, which would impact their ability to prepare for/attend a hearing during that time.

Accordingly, counsel for the parties jointly proposed the following schedule, to wit:

November 5, 2019 Plaintiff's Response to Motion to Dismiss filed by Defendant(s)

November 26, 2019 Defendants' Reply to Plaintiff's Response to Motion to Dismiss

January, 2020 or February, 2020 Hearing on Defendants' Motion to Dismiss

(or at another time
after January 2020
as determined by
by this Court)

The aforementioned facts demonstrate good cause for the requested relief and the Plaintiff respectfully requests the Court grant the parties amended joint motion.

Respectfully submitted this 9th day of October, 2019.

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